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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,603	09/29/2003	James R. Mattox	E248.12-0003	4493
7590	09/29/2004		EXAMINER	
DuFault Law Firm 10 South Fifth Street, Suite 920 Lumber Exchange Building Minneapolis, MN 55402			UPTON, CHRISTOPHER	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/674,603	MATTOX, JAMES R.	
	Examiner	Art Unit	
	Christopher Upton	1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 July 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-8 is/are allowed.
- 6) Claim(s) 9,17 and 19 is/are rejected.
- 7) Claim(s) 10-16,18 and 20 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Neumann.

Neumann discloses a screen for a stream having a rake (32) and a temporary debris receiving structure in the form of a bucket (34). The drive mechanism for the rake is disclosed as being a winch preferably driven by the vehicle motor (see column 3, lines 61-65). The vehicle motor is also used to drive the bucket to the refuse receptacle (see column 3, lines 69-71), which comprises positioning the bucket, as claimed.

3. Claims 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neumann.

Claim 17 differs from Neumann in recitation of use of the same drive to drive the rake and dump the bucket. While not explicitly disclosing the same drive for the

bucket and the rake, it is submitted that the statement in column 3, lines 72-75, that power operated means can obviously be used to tilt the hopper, implies that any such means, including the vehicle motor, may obviously be used to operate the bucket.

With respect to claim 19, it is submitted that some form of sensing, including visual sensing, would obviously be used to determine when the bucket was full and needed to be dumped.

4. Claims 1-8 are allowed.

Claims 10-16, 18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Applicant's arguments filed on July 26, 2004 have been fully considered but they are not persuasive.

Applicant argues there is no teaching that the winch can be coupled interchangeably to the rake or the hopper. It is submitted that the common drive mechanism is the vehicle motor, not the winch, which is driven by the vehicle motor and thereby drives the rake. It is submitted that the Neumann reference discloses that the upper unit, which carries the rake is disengaged from the lower guide channels of the frame (column 3, lines 66-69), and the device is then driven to a refuse receptacle. Clearly, the rake would not be operated while it is disengaged from the screen. Nor would the bucket be tilted at the screen, because the debris would therefore be dumped at the screen instead of the refuse receptacle.

Applicant also argues that the Neumann patent teaches away from having an interchangeable drive mechanism by stating that the winch is separate from the hopper tilt mechanism. With respect to claim 9, it is submitted that claim 9 no longer recites tilting of the storage structure, but only recites positioning, which would comprise driving the structure to the refuse receptacle. In any event, with respect to claim 17, it is also submitted that the teaching of Neumann that power operated means can be used to tilt the hopper obviously implies that the only disclosed power source, the vehicle engine, which is disclosed as having multiple uses, could be used as the power source to tilt the bucket.

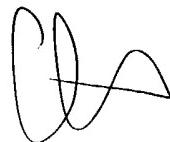
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Upton whose telephone number is 571-272-1169. The examiner can normally be reached on 7:30-5:00, off every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher Upton
Primary Examiner
Art Unit 1724